

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>Anthony Villa,</b>	)	<b>CASE NO. 1:08 CV 1234</b>
	)	
<b>Petitioner,</b>	)	<b>JUDGE PATRICIA A. GAUGHAN</b>
	)	
<b>vs.</b>	)	
	)	
<b>Philip Kernes, Warden</b>	)	<b><u>Memorandum of Opinion and Order</u></b>
	)	
<b>Respondent.</b>	)	

**Introduction**

This matter is before the Court upon the Report and Recommendation of Magistrate Judge McHargh (Doc. 33) which recommends denial of the Petition for Writ of Habeas Corpus pending before the Court. Petitioner failed to file objections to the Report and Recommendation. For the following reasons, the Report and Recommendation is ACCEPTED.

**Facts**

Following a jury trial, petitioner was convicted of murder, aggravated murder, and felonious assault arising from a shooting in a bar. He was sentenced to 23 years to life in prison. His Petition raises 13 grounds for relief. The Magistrate Judge concluded that grounds one, three, five, part of six, seven, eight, twelve, and thirteen are procedurally defaulted. The

remaining grounds were found to fail on the merits. Petitioner did not object to any of the Magistrate Judge's findings.

**Standard of Review**

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, "The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation." When no objections have been filed this Court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

**Discussion**

The Court has reviewed the Report and Recommendation for clear error and finding no such error, hereby accepts it. Further, the Report and Recommendation is fully incorporated herein by reference. For these reasons, the Petition for Writ of Habeas Corpus is dismissed.

**Conclusion**

Accordingly, the Report and Recommendation is accepted. The Petition for Writ of Habeas Corpus is denied. Furthermore, for the reasons stated herein and in the Report and Recommendation, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge

Dated: 4/23/12